

REMARKS

Overview

Claims 1-4 and 9-11 are pending in this application. Claim 1 has been amended. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

Issues under 35 U.S.C. § 103

The Examiner states claims 1-4 and 9-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lockwood et al. in view of Goodroe et al. and further in view of "For Health Benefits, Point and Click" by Bill Leonard for the reasons given in the previous Office Action.

Claims 1-4 and 9-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,845,254 to Lockwood et al in view of U.S. 2002/0123905 A1 to Goodroe et al and further in view of "For Health Benefits, Point and Click" by Bill Leonard (Hereinafter "Leonard"). These rejections are respectfully traversed.

The claimed invention is a methodology for constructing a virtual PPO network. The virtual PPO is constructed by looking at different states, the usage of the health care networks by participants, and consideration of the costs associated with the different health care networks in order to determine which health care networks should be a part of the virtual PPO network. It is submitted that the claimed invention as a whole is fundamentally different from the cited prior art alone or in combination.

Lockwood provides a method and apparatus for objectively monitoring and assessing the performance of health care providers (Abstract). Specifically, Lockwood monitors the performance of each health care provider from a group of health care providers by assessing the

complexity of the health care services given by each provider. In Lockwood, claim records from physicians are analyzed in order to create severity-adjusted records for each type of sickness.

After arranging providers together in groups by the severity-adjusted records, a cost-efficiency performance level is determined for each individual provider along with a qualitative performance level for the group.

The Examiner indicates that he relies upon Figures 7 and 8, (col. 12, lines 35-67 and col. 13, lines 1-39) of Lockwood (Office Action, p. 4) as disclosing multiple health care networks and the selection of a reduced set of health care networks based on the savings of a health care network.

Figure 7 of Lockwood is a flow diagram showing the operation of a system that is operable on a workstation for objectively monitoring and assessing the performance of a group of health care providers. Figure 8 is a flow diagram showing the operation of a provider profiler system for assessing the performance of individual health care providers. Nowhere in Figures 7 and 8 or col. 12, lines 35-67 and col. 13, lines 1-39 does Lockwood disclose the selection of a reduced set of health care networks based on the savings of a health care network. Instead, Lockwood describes determining a qualitative performance of a network as well as assessing the performance of individual health care providers within the network. In other words, Lockwood evaluates health care networks and providers within the network, as opposed to looking at comparisons between different health care networks.

The Examiner indicates that he relies upon Goodroe, page 3, paragraphs 0080-0081, as disclosing a method of how to create a virtual health network which seeks to maximize health care savings while minimizing the inconvenience to participants in changing health care providers (Office Action, p. 4). This portion of Goodroe discloses that each procedure area in a

medical facility has a cost basis for calculating total costs and savings for a category of standardized procedures, and utilization for resources used to perform the procedures. Goodroe simply does not disclose a method of how to create a virtual health network which seeks to maximize health care savings while minimizing the inconvenience to participants.

Claim 1 requires "computing a measure of network utilization for each of the networks using a computer". The cited prior art does not disclose this step. Lockwood merely discloses the use of measurements in "monitoring the quality of health care delivered...by the network," but does not disclose the limitation of actual computation of measurements (Lockwood, Col 4, Lines 40-46). Claim 1 requires "computing measures of network utilization for each of the plurality of health care networks using a computer wherein the measures of network utilization comprise number of participants who utilize health care providers in the network, a measure of a percentage of participants who utilize the health care providers in the network, a measure of total health care costs in the network, and a measure of a percentage of health care costs in the network." This limitation is simply not disclosed by Lockwood, in fact this limitation is not disclosed in any of the cited prior art references. Therefore, this rejection must be withdrawn.

Goodroe involves a healthcare management system which tracks supplies and materials used in clinical procedures to provide information about the resources needed for procedures and associated costs. The Examiner indicates that Goodroe discloses "the method having comparing the measures of network utilization for the health care networks in the same state." Yet Goodroe discloses the comparison of one medical facility and one doctor from another, not the comparison of related networks with a plurality of providers.

The Examiner also indicates the claim 1 limitation of "selecting one or more health care networks for each state based on the measures of utilization to provide a subset of health care

"networks for each state" is disclosed by Goodroe. Goodroe incorporates measuring clinical data in order to provide information about the improvements of each facility to distinguish different facilities. However, the claimed invention is not aimed at distinguishing medical facilities in order to create benchmarks for later review, but at a selection and weeding-out process of health care networks. Claim 1 requiring "selecting one or more health care networks for each state based on the measures of network utilization to provide a reduced number of health care networks for each state". Neither Goodroe nor the other cited prior art references disclose this step. Thus, it is respectfully requested that this rejection be withdrawn.

Claim 1 was further rejected based in part on Leonard. Leonard is an article which discusses the advantages and disadvantages of creating health benefit websites. The Examiner indicates that Leonard, Page 1, Paragraph 1-3 discloses "the method having a computer-assisted method of creating a virtual health care network that spans multiple states and seeks to maximize health care savings while minimizing the inconvenience to participants in changing health care providers." Yet, Leonard, Page 1, Paragraph 1-3 merely states:

"Online technology is radically transforming the way that we conduct business, and the health care system is now in the middle of the information revolution. While traffic to health information sites is growing, e-commerce entrepreneurs are now examining ways to alter the health services market--going beyond providing information and into creating full-service health benefits web sites.

These entrepreneurs are creating virtual preferred provider organizations (PPOs) or health maintenance organizations (HMOs), providing services from procuring health insurance to locating health care providers to administering claims. By delivering these services online, these companies can build large customer bases quickly and develop benefits offerings unique to the online environment.

'In this intensely competitive job market, employers know that they cannot drop or severely limit the benefits they provide', says Connie Rank-Smith, SPHR, vice president of human resources for Jewelers Mutual Insurance in Neenah, Wis. "So they are searching for ways to offer benefits more efficiently and at a lower cost to their employees. And the Internet is providing some interesting options here."

Leonard does not suggest a method of how to create a virtual health care network which seeks to maximize health care savings while minimizing the inconvenience to participants in changing health care providers. None of the prior art references discloses such a limitation. Therefore, it is respectfully requested that this rejection be withdrawn.

Leonard also does not disclose "forming a virtual health care network from the selected networks to thereby maximize health care savings while minimizing inconvenience to participants in changing healthcare providers for participants in the virtual health care network." In Leonard, a virtual PPO is created using a risk-adjusted plan that collects benefit information to be stored in a virtual environment. If a provider is within the virtual PPO system, a risk factor will be calculated for the provider to show the insurance risks associated with using that provider. This calculated risk is then stored in an online system and can be used by insurance companies who are insuring those individual providers. Thus, Leonard's virtual PPO includes keeping up-to-date records about benefits and risks of individual providers so that insurance companies can better assess a provider's policy. This virtual PPO is completely different than the virtual health care network of the present invention, and thus this rejection must be withdrawn. As claims 2-8 depend from claim 1, it is respectfully submitted that these rejections be withdrawn as well.

There is an independent reason for the patentability of claim 2. Claim 2 was rejected on the basis that Lockwood discloses "the method wherein the future health care savings are projected based upon historical health care costs for participants, health care network discounts and a portion of the historical health care costs projected to fall to a health care provider in the network." Lockwood, however, merely discloses the use of standard benchmarks for different procedures in order to evaluate and monitor costs of particular claims. Lockwood does not

disclose the limitation of "projecting" future health care savings based on those benchmarks.

Therefore, it is respectfully requested that this rejection be withdrawn.

Claims 9-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,845,254 to Lockwood et al in view of U.S. 2002/0123905 A1 to Goodroe et al.

The Examiner indicates that Lockwood discloses the limitation "for each of the group health care networks, collecting information concerning the number of potential plan participants who utilize a health care provider under the networks." Lockwood, however, merely discloses the monitoring of health care budgetary limits and complexity levels of provider case-loads, not the number of potential plan participants. It is thus respectfully requested that this rejection be withdrawn on this basis.

The Examiner also indicates that Lockwood discloses the limitation of "determining utilization for each of the networks based upon the number of potential plan participants who utilize a health care provider under the networks." Claim 1 was rejected for a similar limitation, and the explanations for the withdrawal of claim 1's rejection are incorporated herein. Thus, it is respectfully requested that this rejection be withdrawn as well.

Claim 9 requires "determining utilization for each of the networks in the plurality of networks based upon the number of potential plan participants who utilize a health care provider under the networks." Thus, it is respectfully requested that these rejections be withdrawn.

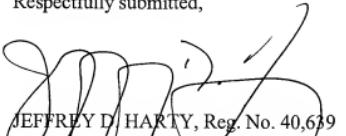
Conclusion

As all pending claims are patentably distinguishable over the cited prior art, all rejections should be withdrawn and the Examiner should find all claims allowable.

This amendment accompanies the filing of a Request for Continued Examination (RCE).

Please charge Deposit Account No. 26-0084 the amount of \$395.00 for the RCE. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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